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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/683,842

10/10/2003

Don Gregory French

2717

7590

07/13/2004

Don Gregory French  
451 E. Via Cortes  
Green Valley, AZ 85614

EXAMINER

COHEN, AMY R

ART UNIT

PAPER NUMBER

2859

DATE MAILED: 07/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/683,842

Applicant(s)

FRENCH, DON GREGORY

Examiner

Amy R Cohen

Art Unit

2859

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## **DETAILED ACTION**

### ***Specification***

1. The disclosure is objected to because of the following informalities:

Paragraph numbers throughout the specification should have brackets around them, i.e. [0001], in order to avoid any confusion. The claim(s) does/do not need paragraph numbers and therefore this should be deleted.

In the "Brief Description of the Drawings," only refer to the figure number, not the page on which the figure is found.

Page 6, reference to the provisional application, 60/418,238, should include the date of this provisional application.

Appropriate correction is required.

### ***Claim Objections***

2. Claim 1 is objected to because of the following informalities:

Claim 1 should be rewritten; the numbers should be replaced with either letters or roman numerals in order to avoid confusion over whether each item in the listing is a new claim or part of the original claim.

Claim 1 claim language should positively claim all of the structural limitations of the invention. The intended use of the invention is not given patentable weight in an apparatus claim.

Appropriate correction is required.

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See patents Chilton (U. S. Patent No. 6,684,522), Tarver, III (U. S. Patent No. 6,530,159), and Poorman (U. S. Patent No. 5,724,747) for examples of acceptable claim language.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jones (U. S. Patent No. 3,270,421) in view of Wagner et al. (U. S. Patent No. 5,012,590).

Jones discloses a guide for the layout and cutting of frame carpentry, provided with accurate measurements, distinguished by icons in the form of a standard tape measure, comprising: measurements of 1½", 16" studs, and 3½" and 5½" offsets, 24" studs and 3½" and 5½" offsets, combined 16" and 24" studs; 1½" icons/indicia; 1/8" icons/indicia; and wherein both right-handed and left-handed users can easily read the indicia or icons (Figs. 1-9, indicia is marked in eighths or sixteenths of an inch, foot markers are marked in red, and 16" marks are also marked in red to distinguish 16" on center studs, scales C and D are shown on the tape for both right-handed and left-handed carpenters).

Jones does not disclose a guide wherein separate forms of icons/indicia are used to designate various different objects being measured.

Wagner et al. discloses a guide for the layout and cutting of frame carpentry wherein separate forms of icons/indicia are used to designate various different objects being measured

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(Figs. 1-4, each set of icons indicates a different object to be measured, within each set of icons, different shadings represent direction of intended use, or if the object is to be on or off center).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the guide of Jones to sets of icons representing different objects, as taught by Wagner et al., so that a user would be able to recognize the spacing for different objects being measured by the icons, rather than by the overall length, thereby eliminating the need to perform calculations, and so that the spacing of objects to be measured in relation to each other is easily seen and recognized.

### ***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following patents disclose guides for construction Lafrance (U. S. Patent No. 6,494,014), Smyj (U. S. Patent No. 6,360,448), Gilliam et al. (U. S. Patent Des. 402,216), Poorman (U. S. Patent No. 5,724,747), Nygren (U. S. Patent No. 5,367,783), Jones, Jr. (U. S. Patent No. 5,335,421), Thomas (U. S. Patent No. 4,845,858), Smith (U. S. Patent No. 4,499,666), Winter et al. (U. S. Patent No. 4,367,590), Sedlock (U. S. Patent No. 4,301,596), and Leary (U. S. Patent No. 2,187,087).

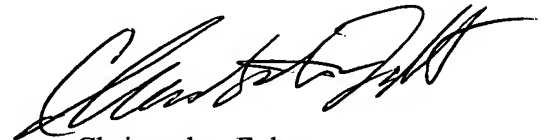
6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Amy R Cohen whose telephone number is (571) 272-2238. The examiner can normally be reached on 8 am - 5 pm, M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego F. Gutierrez can be reached on (571) 272-2245. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ARC  
July 9, 2004

A handwritten signature in black ink, appearing to read "Christopher Fulton", written in a cursive style.

Christopher Fulton  
Primary Examiner  
Tech Center 2800